

2.0 ADMINISTRATIVE AND LEGAL PROCEDURES

2.1 Department Roles

The following is a table identifying the departments and staff that conduct urban runoff management activities and their roles under the City's JURMP. For broader descriptions of the departments and their overall roles in the City operations, please see the City's website at www.carlsbadca.gov.

Table 2-1 Department Roles

Department	Roles
City Manager's Office	Overall oversight for JURMP implementation;
City Attorney	Certification of adequate legal authority; Enforcement assistance when necessary.
City Clerk	Maintains records of programs and implementation; provides public records request support when applicable
Public Works Director	Designee for JURMP oversight with authority to certify related documents.
Community Development – Planning Division and Public Works - Development Services	General Plan update; Environmental Review process update and implementation; review of projects for compliance with all City development codes; conditions of approval for project permitting process; provide data and information for annual reports; provide education to development community
Public Works – Engineering (Land Development) Division	Modifications to development requirements; ensure that new development and significant redevelopment requirements (e.g., SUSMP) are included in all development projects; maintain inventory of permits; assist in development of and implementation of Hydromodification Management Plan; provide data and information for annual reports; provide education to development community
Public Works – Engineering (Capital Projects) Division	Ensure that capital improvement projects meet the new development or significant redevelopment requirements; ensure that the capital improvement projects construction activities have adequate BMPs required for implementation by the City's contractor; provide data and information for annual reports
Public Works – Construction Management and Inspections	Maintain construction site inventory; Conduct inspections and regulate construction sites regarding erosion, sediment control and other site management activities; including post-construction BMPs; Contribute to education and outreach for construction audience; Conduct post-construction BMP construction verification; Maintain the treatment control BMP inventory and oversee maintenance tracking activities; Special event inspections; Provide data and information for annual reporting

Department	Roles
Community Development – Building Division and Code Enforcement	Plan review, permit issuance, building inspection and code enforcement for building permit projects; provide data and information for annual reports; provide education to development community, Provide enforcement support for construction activities.
Public Works – Storm Water Protection Program	Manage Coastal Monitoring Program, Dry Weather Monitoring Program, and participate in the Regional Monitoring Program; Oversight of illicit discharge detection and elimination program, including investigation and enforcement; Maintain municipal inventory and manage municipal high priority facilities program; Assist with training of municipal employees; Conduct inspections and enforcement of industrial and commercial facilities; Hotline and complaint response, enforcement and follow-up; Education of residential sector, industrial and commercial facilities; personnel; Provide educational materials and outreach for various target audiences; Provide education for residents, general public, and school children; Serve as liaison to City Departments regarding implementation of the Order and JURMP; Coordinate annual report preparation; Lead agency for Carlsbad WURMP Workgroup; Serve as lead for TMDL related activities.
Public Works – Parks	Application of pesticides; herbicides and fertilizers; maintenance of parks and park facilities; maintenance at Municipal high priority facilities; BMPs; provide data and information for annual reports
Public Works – General Services and Maintenance & Operations	Provides general, routine maintenance, and BMP maintenance at City-owned buildings; Administers street sweeping program and trash pickup contract; maintenance of City streets and roads; Operate and maintain the City's storm water system and structural controls; Conduct preventative maintenance; provide data and information for annual reports
Fire Department	Implementation of BMPs at Fire Stations and during non-emergency fire-fighting activities; Provide training to staff; Provide data and information for annual reporting
Community Development - GIS	GIS development and implementation; database management
Finance Department	Maintains City business license database.
Public Works – Environmental Programs	Household Hazardous Waste Management Program; provide data and information for annual reports.

The organizational chart, Figure 2-1, below shows these departments in relation to the City management.

CITY OF CARLSBAD ORGANIZATION CHART

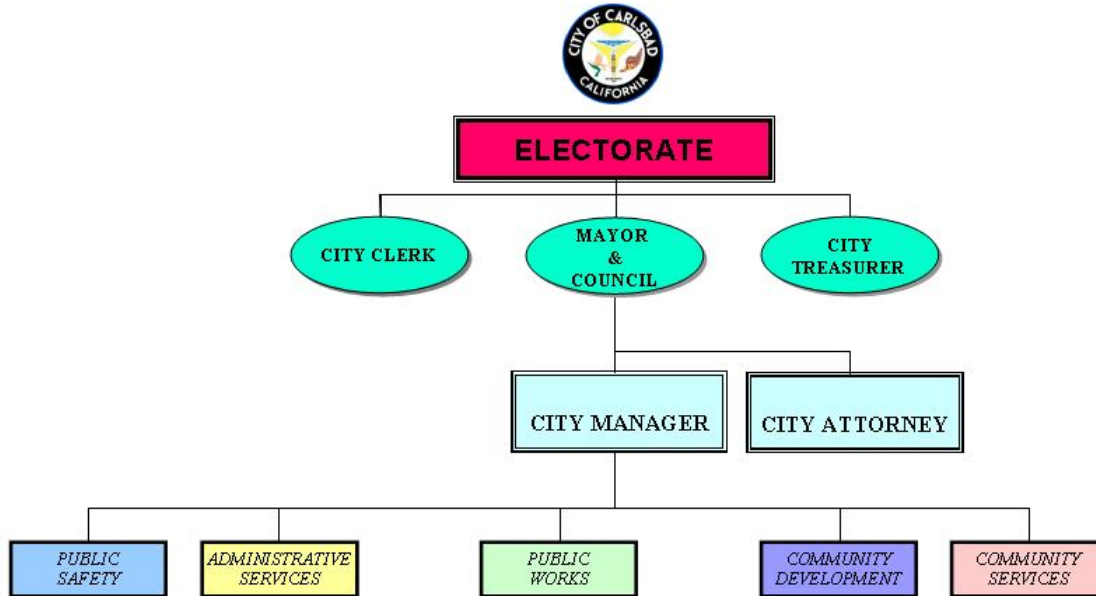


Figure 2-1 City of Carlsbad Organizational Chart

2.2 Legal Authority

The City has established and maintains its legal authority to control pollutant discharges into and from its MS4 as specified in Section C.1 of the Order. The City will continue to ensure that it has the legal authority to require BMP implementation, to prohibit all identified illicit discharges which are not exempt pursuant to Section B.2 of the Order, to prohibit and eliminate illicit connections to the MS4, and to control the discharge of spills, dumping, and disposal of materials other than storm water to its MS4.

The City has local ordinances and Municipal Code sections that provide legal authority for enforcing urban runoff requirements. Details of the specific Municipal Code sections can be found in the Certification of Legal Authority letter in Appendix 2.

2.3 Certification of Legal Authority

The chief legal counsel of the City of Carlsbad has prepared a letter certifying that the City has adequate legal authority to implement and enforce the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and RWQCB Order No. R9-2007-0001. This letter is included in Appendix 2.

2.4 Enforcement Procedures

The City is required to enforce its Municipal Code throughout the City. A stormwater enforcement action would typically occur as a result of an inspection or in response to a public or municipal investigation. The City employs several enforcement mechanisms and penalties to ensure compliance with its Municipal Code. The levels of enforcement and associated penalties are typically issued at the discretion of the Enforcement Official with consideration of relevant circumstances regarding the violation. The general process for applying enforcement for urban runoff related violations is described below.

It is always the City's intent to educate any individual or group of individuals prior to taking formal enforcement action, giving due process. While these measures typically escalate in enforcement action, they are not required to be issued in the exact order presented here. City enforcement officials will apply or recommend any of the enforcement steps as appropriate according to their best professional judgment. A discussion of these measures is provided below.

The enforcement mechanisms available to enforcement officials are as follows:

1. Verbal and/or Written Warnings;
2. Corrective Action Plan;
3. Notice to Clean, Test and/or Abate;
4. Notice of Violation;
5. Cease and Desist Orders or Stop Work Orders;
6. Administrative Penalties;
7. Administrative Hearing
8. Permits or License Suspension, Revocation, or Denial;
9. Declaration of a Public Nuisance;
10. Injunction/Abatement of Public Nuisance, and;
11. Civil and/or Criminal Penalties.

1. Verbal and/or written Warnings

A common initial method of requesting corrective action and obtaining compliance is a verbal or written warning to the responsible party. Verbal warnings from the enforcement official are often sufficient to achieve correction of the violation, often while the enforcement official is present at the site. After notifying the responsible party of the violation verbally or in writing, the enforcement official should document the violation and notification in the inspection or complaint file, and note any time frames given for correcting the problem or follow-up inspections, if needed. In judging the degree of severity, the City of Carlsbad enforcement official may also take into account any history of similar or repeated violations at the site.

Follow-up activities will be conducted as deemed necessary by the enforcement official or contracted staff, and may be necessary for any enforcement action listed below.

2. Corrective Action Plan

A corrective action plan may be issued to ensure that violations are corrected by specified deadlines.

3. Notice to Clean, Test and/or Abate

If the Enforcement Official finds any sediment, waste or pollutants leaving a property and entering the MS4 which may result in an increase in pollutants entering the City's storm water conveyance system in violation of the City ordinance, the enforcement official may issue orders and give written notice to remove the material in any reasonable manner.

4. Notice of Violation

A written Notice of Violation is used when verbal or written warnings are not deemed sufficient to correct the violation or additional documentation is warranted. The written Notice of Violation describes the infraction that is to be corrected and the required response or time frame(s) for correction. The notice is issued to the responsible party, and a copy is placed in the active inspection file. If the violation is corrected to the satisfaction of the Enforcement Official, the Enforcement Official will document compliance in the inspection file.

5. Cease and Desist Orders or Stop Work Orders

A City Enforcement Official may issue an order to cease and desist any discharge, practice, or operation that is occurring or is likely to cause violation(s) of the City ordinance.

Whenever any work is being done contrary to the provisions of the City ordinance, the City Enforcement Official may order the work stopped by notice in writing served on any person engaged in performing or causing such work to be done, and any such person shall immediately stop such work until authorized by the Enforcement Official to proceed.

6. Administrative Penalties/Citation

Because violations vary in threat to water quality, City Enforcement Officials may consider utilizing administrative citations for infractions or misdemeanors. Administrative Citations include fines with increasing value depending on the amount of the same preceding violations within a year. The Citation must be preceded by a Notice of Violation for the same violation within the previous year. The first violation involves a fine not exceeding one hundred dollars, the second violation involves a fine not exceeding two hundred dollars, and all subsequent violations include a fine not exceeding five hundred dollars.

7. Administrative Hearing

If a violation is not corrected within 10 days of the issuance of an order, the Enforcement Official may request the City Manager to appoint a hearing officer and fix a date, time, and place for hearing.

8. Permits or License Suspension, Denial, or Revocation

Violations of the City ordinance may be grounds for local permit or license denial, suspension, or revocation, including but not limited to building permits, right-of-way permits, grading permits, and conditional use permits.

9. Declaration of a Public Nuisance

Whenever an existing condition or a discharge into the storm water conveyance system violates the City ordinance, it is considered a threat to public health, safety, and welfare and may be declared a public nuisance. The Enforcement Official may follow appropriate procedures to recommend a declaration of a public nuisance by City Council in order to abate the nuisance discharge or condition.

10. Injunction/Abatement of Public Nuisance

Whenever a discharge into the storm water conveyance system is in violation of the City ordinance or otherwise threatens to cause a condition of contamination, pollution, or nuisance, the Enforcement Official may cause the City to seek a petition to the Superior Court for the issuance of a preliminary or permanent injunction, or both, or an action to abate a public nuisance, as appropriate in restraining the continuance of such a discharge.

11. Civil and/or Criminal Penalties

Parties responsible for violations of any provisions of the ordinance may be held liable for a civil penalty not to exceed two thousand five hundred dollars for each day such a violation exists. The Responsible Party may be charged for the full costs of any investigation, inspection, or monitoring survey which leads to the detection of any such violation, for abatement costs, and for the reasonable costs of preparing and bringing legal action under the City's ordinance, CMC Chapter 15.12.

Parties responsible for violations of any provisions of the ordinance may also be punished, upon conviction, by a fine not to exceed one thousand dollars for each day in which the violation occurs, or imprisonment in the San Diego County jail for a period not to exceed six months, or both.